



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,463	11/06/2001	Kyle N. Patrick	CA9 2000 0073 US1	8341

7590 06/14/2005

Karl O. Hesse
International Business Machines Corp.
IP Law Dept.
8501 IBM Drive
Charlotte, NC 28262

EXAMINER

PENDLETON, BRIAN T

ART UNIT	PAPER NUMBER
----------	--------------

2644

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/993,463

Applicant(s)

PATRICK ET AL.

Examiner

Brian T. Pendleton

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/6/01.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,9-11,14-19,24-41 and 47-49 is/are rejected.
- 7) ☒ Claim(s) 5-8,12,13,20-23 and 42-46 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 9-11, 16-19, 27-32 and 36-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Gulick, US Patent 6,473,663. Gulick discloses a noise elimination system for a personal computer system comprising USB controller 112, amplifier 114, and speaker 116. USB controller 112 contains speaker control unit 208 which monitors the audio channel to detect the absence of data (see column 7 lines 47-61) and controls the speaker power in response to the absence or presence of audio data. Claims 1-3, 16-18, 27-32 and 36-38 are met. The bus monitor 2000, which is part of the speaker control unit 208, has a counter 2004 which increments a counter value in response to the absence of audio data. Claims 4 and 19 are met. As to claims 9-11, a function call is inherent to a computer system whenever audio data is going to be played.

Claims 1, 14-17, 24, 25, 33, 34, 39-41, 47, and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Lada, Jr., US Patent 5,794,057. Lada discloses an audio board 400 comprising audio power control unit 412 for producing a control signal SPKMUTE which is coupled to PC speaker driver 418 which mutes the audio output during powering on and off. The speaker driver 418 has a first input for the R audio signal, a second input for the SPKMUTE control signal and a controller 554 to provide the speaker drive signal to the speaker 556. The

Art Unit: 2644

powering on and off is directly related to an user input, therefore the control signal SPKMUTE is set in response to user input. Claims 1, 14-17, 33, 34, 39, 40, 41, 47 and 48 are met. As to claims 24 and 25, there is a processor circuit in CPU/memory unit 100. Per claims 26 and 49, there is an inherently D/A converter in the computer.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lada, Jr in view of Ackerman, US Patent 6,643,376. Lada, Jr. does not disclose that the switch includes a relay energized in response to the control signal indicating that audio program content is imminent. Ackerman discloses a signal processing apparatus comprising a relay 242 which energizes a switch 240 to connect an audio amplifier to speaker outputs. Therefore, it was well known to use relays for switching purposes. As a result, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Lada, Jr. to include relays for the purpose of switching off the amplifier in controller 554 since it was practiced in the art as one of the many ways to implement a switching method.

Allowable Subject Matter

Art Unit: 2644

Claims 5-8, 12, 13, 20-23 and 42-46 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tran, US Patent 5,818,299.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian T. Pendleton whose telephone number is (571) 272-7527. The examiner can normally be reached on M-F 7-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Brian T. Pendleton
Examiner
Art Unit 2644



**BRIAN PENDLETON
PATENT EXAMINER**

btp